

MAY - 4 2006

DOCKET NUMBER: 95176562-005004 (64230-00005USD2)  
PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lloyd Wolfinbarger, Jr.

Serial No.: 09/940,545

Filed: August 29, 2001

For: Plasticized Bone and Soft Tissue Grafts and  
Methods of Making and Using Same§  
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Group Art Unit.: 3732

Examiner: David Comstock

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

## CERTIFICATE OF FACSIMILE 37 CFR 1.8

I hereby certify that this correspondence is being transmitted  
to the United States Patent and Trademark Office via  
facsimile to (571) 273-8300 on May 4, 2006.*Karen L. Hudson*  
SignaturePETITION TO WITHDRAW HOLDING OF ABANDONMENT

Applicant asks for withdrawal of a holding of abandonment of Application Serial No. 09/940,545 because a Notice of Appeal was timely filed while the application was pending. The records at the United States Patent & Trademark Office ("USPTO") confirm the following:

1. On March 15, 2005, the USPTO mailed an Office Action to Applicant. See Exhibit A, which is attached.
2. September 15, 2005, was the last date to file a response.
3. On September 14, 2005, in response to the March 15<sup>th</sup> Office Action, Applicant submitted a Notice of Appeal to the USPTO and requested a three-month extension of time. See Exhibit B, which is attached.
4. This submission occurred before the September 15<sup>th</sup> deadline.
5. On September 21, 2005, the USPTO mailed a Notice of Abandonment stating that a timely reply to an Office Action mailed March 15, 2005 had not been received. See Exhibit C, which is attached. This Notice is clearly in error.
6. The PAIR system still incorrectly indicates that this application has been abandoned.

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7. Applicant's representatives have contacted the Examiner and his Supervisory Primary Examiner to have the application reinstated. Neither would do so.

Because a Notice of Appeal was timely filed on September 14, 2005, before the deadline, Applicant respectfully petitions that the holding of abandonment be withdrawn.

If there are any questions regarding this petition or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Respectfully submitted,

Stephanie A. Wardwell  
Stephanie A. Wardwell  
Reg. No. 48,025

Date: May 4, 2006  
Baker & McKenzie LLP  
815 Connecticut Avenue, NW  
Washington, DC 20006  
(202) 452-7000  
(202) 452-7074 (fax)